



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street

San Francisco, CA 94105-3901

JUL 14 2014

Zenaida J. Sison  
BKK Corporation  
2210 South Azusa Avenue  
West Covina, California 91792-1510

7013 1090 0000 1618 4575  
7013 1090 0000 1618 4568

Dear Sir or Madam:

Region IX of the United States Environmental Protection Agency ("EPA") is issuing this letter to determine the Clean Air Act ("CAA" or "Act") compliance status of the BKK Landfill with respect to the Mandatory Greenhouse Gas Reporting Rule at 40 C.F.R. Part 98<sup>1</sup> (hereafter "the *GHG*<sup>2</sup> Reporting Rule") and with the portion of the *GHG* Reporting Rule that addresses reporting by Municipal Solid Waste Landfills ("*MSW Landfills*") at Subpart HH – Municipal Solid Waste Landfills at 40 C.F.R. Part 98, Subpart HH, 40 C.F.R. §§ 98.340-348 (hereafter "the *GHG* Reporting Rule for *MSW Landfills*"). The BKK Landfill (which includes the closed Class I Hazardous Waste Landfill and the Class III Municipal Solid Waste Landfill) is located at 2210 South Azusa Avenue in West Covina, California 91792 (hereafter "BKK's *Facility*"). Pursuant to Section 114 of the Act, 42 U.S.C. § 7414, BKK Corporation ("BKK") is hereby required to provide the following information requested in this letter. In responding to this request, BKK shall use the instructions provided in Enclosure 1.

1. Is or has BKK been the *owner* or *operator* of an *MSW Landfill* at BKK's *Facility* from any time between January 1, 1980, and the present? If the answer to this question is "no" then do not respond to any further requests. If the answer to this question is "yes" then state the time period(s) BKK is or has been the *owner* or *operator* of BKK's *Facility* then continue to the next request.
2. Did BKK's *Facility* accept any *MSW* on or after January 1, 1980? If the answer to this question is "no" then do not respond to any further requests. If the answer to this question is "yes" then state the time period(s) *MSW* was accepted then continue to the next request.
3. Requests 3, 4 and 5 are directed at determining whether a limited exclusion to the *GHG* Reporting Rule for *MSW Landfills* applies. See 40 C.F.R. § 98.340(a). Did BKK's *Facility* accept any *MSW* on or after January 1, 2013? If the answer to this question is "yes" then skip to request 6 below. If the answer to this question is "no" then continue to the next request.

<sup>1</sup> The *GHG* Reporting Rule is a federal requirement that is distinct from California's reporting of *GHGs* under the California Global Warming Solutions Act (AB 32, 2006). The following is the link to the *GHG* Reporting Rule: [http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=/ecfrbrowse/Title40/40cfr98\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=/ecfrbrowse/Title40/40cfr98_main_02.tpl).

<sup>2</sup> All terms in italics are defined at 40 C.F.R. § 98.6.

4. Was BKK required to submit an annual report for BKK's *Facility* under any requirement of the *GHG Reporting Rule* in any reporting period prior to 2013? If the answer to this question is "yes" then skip to request 6 below. If the answer to this question is "no" then continue to the next request.
5. Calculate the  $CH_4$  generation at the *MSW Landfill* at BKK's *Facility* for calendar year 2013 using Equation HH-5 and, if applicable, Equation HH-7. See 40 C.F.R. §§ 98.340(a)(2) and 98.343. Produce a copy of the  $CH_4$  generation for calendar year 2013. If the  $CH_4$  generation is less than 1,190 metric tons, then do not respond to any further requests. If the  $CH_4$  generation is greater than or equal to 1,190 metric tons, then continue to request 6.
6. Did BKK or its designated representative<sup>3</sup> submit an annual report of *GHGs* from BKK's *Facility* using EPA's electronic *Greenhouse Gas Reporting Tool* ("e-GGRT")<sup>4</sup> for calendar years:
  - a. 2010?
  - b. 2011?
  - c. 2012?
  - d. 2013?
7. If BKK responded "no" to any of requests 6(a), 6(b), 6(c) or 6(d) provide records or other documents, used by BKK or its designated representative, to reflect the calculations made from January 1, 2010, through March 31, 2014, of  $CO_2e$  emissions from BKK's *Facility*.
8. Where BKK or its designated representative has not submitted an annual report to e-GGRT calculating annual  $CO_2e$  emissions from BKK's *Facility* for any calendar year from 2010 through 2013, in accordance with 40 C.F.R. § 98.343, calculate the annual  $CO_2e$  emissions from BKK's *Facility*, in accordance with 40 C.F.R. § 98.343. Please include all recycled methane at BKK's *Facility*.

BKK shall submit its response to this request postmarked no later than forty-five (45) calendar days after receipt of this letter. All information submitted in response to this request must be certified in a signed, separate statement as true, correct, accurate, and complete, to the best of his/her knowledge, by an individual with sufficient knowledge and authority to make such representations on behalf of BKK.

If BKK seeks to withhold any document(s) based on a claim of attorney-client communications privilege or the attorney work product doctrine in its response to this information request, BKK shall provide with its response a privilege log for each document containing the following information: (i) the date, author(s), every individual to whom the document was originally sent, every individual who subsequently acquired the document, the purpose for which the document was sent to or obtained by those individuals, and the employment titles of the authors and recipients; (ii) the subject matter of the document; (iii) the privilege claimed for the document and all facts supporting the claim of privilege;

<sup>3</sup> See 40 C.F.R. § 98.4 for the authorization and responsibilities of the designated representative.

<sup>4</sup> See <http://www.epa.gov/ghgreporting/reporters/datasystem/index.html> for information on e-GGRT.

(iv) the primary purpose(s), including the business purposes, for which the document was made; (v) the question(s) in this information request to which the document is responsive to; and (vi) all facts contained in the document that are responsive to a question in this information request.

The responsive information shall be accompanied by a cover letter sent via certified mail with return receipt requested to the following address:

Ms. Kathleen H. Johnson  
Director, Enforcement Division  
U.S. Environmental Protection Agency  
75 Hawthorne Street  
San Francisco, CA 94105

Attn: Mark Sims (ENF-2-1)

Please be advised that under Section 113(a) of the Act, 42 U.S.C. § 7413(a), failure to provide the information and documents required by this letter may result in an order requiring compliance, an order assessing an administrative penalty, or a civil action for appropriate relief. Section 113(b) of the Act, 42 U.S.C. § 7413(b), provides for the assessment of a civil penalty, which has been adjusted for inflation to \$37,500 per day, for each violation of the Act. See 40 C.F.R. § 19.4 (for penalties effective after January 12, 2009). In addition, Section 113(c) of the Act, 42 U.S.C. § 7413(c), provides criminal penalties for knowingly making any false material statement in, or omitting material information from, any report required under the Act. The information provided by BKK may be used by the United States in administrative, civil, or criminal proceedings.

You may, if you desire, assert a confidential business information ("CBI") claim on behalf of BKK covering part or all of the information provided to EPA in response to this letter. Any such CBI claim must conform to the requirements set forth in 40 C.F.R. Part 2, particularly 40 C.F.R. § 2.203. You are advised that certain information may be made available to the public pursuant to Section 114(c) of the Act, 42 U.S.C. § 7414(c), and 40 C.F.R. § 2.301, notwithstanding a claim that such information is entitled to confidential treatment. Please note that emission data provided pursuant to Section 114 of the Act, 42 U.S.C. § 7414, is not entitled to confidential treatment under 40 C.F.R. Part 2, Subpart B. Emission data is defined at 40 C.F.R. § 2.301(a)(2). If no claim of confidentiality is received with your reply, the information may be made available to the public without notice to BKK.

This information request is not subject to review by the Office of Management and Budget under the Paperwork Reduction Act because it is not the "collection of information" within the meaning of 44 U.S.C. §§ 3502(3) and 3518(c)(1), since it is being directed to fewer than ten persons or entities and is being issued during the conduct of an investigation involving the EPA against specific individuals or entities. See also 5 C.F.R. §§ 1320.3(c) and 1320.4.

We would also like to take this opportunity to advise you that BKK may qualify as a "small business" under the Small Business Regulatory Enforcement and Fairness Act ("SBREFA"). Please review the enclosed SBREFA Information Sheet, which is designed to provide information on compliance assistance to entities that may qualify as small businesses as well as to inform them of their right to comment to the SBREFA Ombudsman concerning EPA's enforcement activities. Please be aware that SBREFA does not eliminate BKK's responsibility to respond in a timely fashion to any complaint or information request that EPA may issue or other enforcement action that EPA may take, nor does

SBREFA create any new rights or defenses under the law other than the right to comment to the SBREFA Ombudsman.

If BKK anticipates that it will not be able to respond fully to this request within the time period specified, BKK must submit a sworn declaration by a responsible corporate/government official within ten (10) calendar days after receipt of this letter specifying what information will be provided by the allotted deadline, describing the efforts that have been/are being undertaken to obtain the remaining other responsive information, and providing a detailed schedule of when such other responsive information will be provided. Upon receipt and based upon such declaration, EPA may extend the time in which to respond to this information request. Also, please contact EPA if BKK determines that a full response to a particular request for information would require the submission of an extremely large number of documents. Based upon such notification, EPA may modify the scope of the documents required to be produced.

If you have any questions regarding this request, please contact Mark Sims of my staff at (415) 972-3965 or your attorney can contact Daniel Reich, Office of Regional Counsel, at (415) 972-3911. Thank you for your cooperation in this matter.

Sincerely,



Kathleen H. Johnson  
Director, Enforcement Division

Enclosures

cc: Kris Karazian, Treasurer, BKK Corporation  
Edwin Pupka, Senior Enforcement Manager, South Coast AQMD  
James Ryden, California Air Resources Board

### **ENCLOSURE 1: Instructions**

1. All responsive documents must be:
  - a. provided as an accurate and legible copy in a searchable PDF file format;
  - b. submitted on a disk (CD or DVD media);
  - c. number stamped in sequential order (BATES stamped); and
  - d. submitted as an attachment to a letter postmarked no later than 45 calendar days after receipt of this letter.
2. Prepare a cover letter that includes a written response to all requests referencing the request number to which each answer or document pertains. In addition, attach to the cover letter the signed certification by a corporate/government official with authority to make such representations for BKK, described in the body of the above information request letter.
3. To the extent that BKK has no responsive information or documents for any particular request, this must be explicitly stated in the response.
4. Where documents or information necessary for a response are neither in your possession nor available to you, indicate in your response why such documents or information is not available or in your possession and identify any source that either possesses or is likely to possess such information.
5. To the extent that a document is responsive to more than one request, this must be so indicated and only one copy of the document need be provided.



## U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources, including workshops, training sessions, hotlines, websites and guides, to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

### EPA's Small Business Websites

Small Business Environmental Homepage - [www.smallbiz-enviroweb.org](http://www.smallbiz-enviroweb.org)

Small Business Gateway - [www.epa.gov/smallbusiness](http://www.epa.gov/smallbusiness)

EPA's Small Business Ombudsman - [www.epa.gov/sbo](http://www.epa.gov/sbo) or 1-800-368-5888

### EPA's Compliance Assistance Homepage

[www.epa.gov/compliance/assistance/  
business.html](http://www.epa.gov/compliance/assistance/business.html)

This page is a gateway to industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

### EPA's Compliance Assistance Centers

[www.assistancecenters.net](http://www.assistancecenters.net)

EPA's Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

### Agriculture

[www.epa.gov/agriculture/](http://www.epa.gov/agriculture/)

### Automotive Recycling

[www.ecarcenter.org](http://www.ecarcenter.org)

### Automotive Service and Repair

[www.ccar-greenlink.org](http://www.ccar-greenlink.org) or 1-888-GRN-LINK

### Chemical Manufacturing

[www.chemalliance.org](http://www.chemalliance.org)

### Construction

[www.cicacenter.org](http://www.cicacenter.org) or 1-734-995-4911

### Education

[www.campuserc.org](http://www.campuserc.org)

### Food Processing

[www.fpeac.org](http://www.fpeac.org)

### Healthcare

[www.hercenter.org](http://www.hercenter.org)

### Local Government

[www.lgean.org](http://www.lgean.org)

### Metal Finishing

[www.nmfrc.org](http://www.nmfrc.org)

### Paints and Coatings

[www.paintcenter.org](http://www.paintcenter.org)

### Printed Wiring Board Manufacturing

[www.pwbrc.org](http://www.pwbrc.org)

### Printing

[www.pneac.org](http://www.pneac.org)

### Ports

[www.portcompliance.org](http://www.portcompliance.org)

### U.S. Border Compliance and Import/Export Issues

[www.bordercenter.org](http://www.bordercenter.org)

### Hotlines, Helplines and Clearinghouses

[www.epa.gov/epahome/hotline.htm](http://www.epa.gov/epahome/hotline.htm)

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Some examples are:

### Antimicrobial Information Hotline

[info-antimicrobial@epa.gov](mailto:info-antimicrobial@epa.gov) or  
1-703-308-6411

### Clean Air Technology Center (CATC) Info-line

[www.epa.gov/ttn/catc](http://www.epa.gov/ttn/catc) or 1-919-541-0800

### Emergency Planning and Community Right-To-Know Act

[www.epa.gov/superfund/resources/  
infocenter/epcra.htm](http://www.epa.gov/superfund/resources/infocenter/epcra.htm) or 1-800-424-9346

### EPA Imported Vehicles and Engines Public Helpline

[www.epa.gov/otaq/imports](http://www.epa.gov/otaq/imports) or  
734-214-4100

### National Pesticide Information Center

[www.npic.orst.edu/](http://www.npic.orst.edu/) or 1-800-858-7378

### National Response Center Hotline - to report oil and hazardous substance spills

[www.nrc.uscg.mil](http://www.nrc.uscg.mil) or 1-800-424-8802

### Pollution Prevention Information Clearinghouse (PPIC)

[www.epa.gov/opptintr/ppic](http://www.epa.gov/opptintr/ppic) or  
1-202-566-0799

### Safe Drinking Water Hotline

[www.epa.gov/safewater/hotline/index.  
html](http://www.epa.gov/safewater/hotline/index.html) or 1-800-426-4791

### Stratospheric Ozone Protection Hotline

[www.epa.gov/ozone](http://www.epa.gov/ozone) or 1-800-296-1996

**Toxic Substances Control Act (TSCA) Hotline**  
tsc hotline@epa.gov or 1-202-554-1404

**Wetlands Information Helpline**  
www.epa.gov/owow/wetlands/wetline.html or 1-800-832-7828

### State and Tribal Web-Based Resources

**State Resource Locators**  
www.envcap.org/statetools

The Locators provide state-specific contacts, regulations and resources covering the major environmental laws.

**State Small Business Environmental Assistance Programs (SBEAPs)**  
www.smallbiz-enviroweb.org

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits. The website is a central point for sharing resources between EPA and states.

**EPA's Tribal Compliance Assistance Center**  
www.epa.gov/tribalcompliance/index.html

The Center provides material to Tribes on environmental stewardship and regulations that might apply to tribal government operations.

**EPA's Tribal Portal**  
www.epa.gov/tribalportal/

The Portal helps users locate tribal-related information within EPA and other federal agencies.

**EPA Compliance Incentives**  
EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two such policies that may apply to small businesses:

**EPA's Small Business Compliance Policy**  
www.epa.gov/compliance/incentives/smallbusiness/index.html

This Policy offers small businesses special incentives to come into compliance voluntarily.

**EPA's Audit Policy**  
www.epa.gov/compliance/incentives/auditing/auditpolicy.html

The Policy provides incentives to all businesses that voluntarily discover, promptly disclose and expeditiously correct their noncompliance.

### Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247), or go to their website at [www.sba.gov/ombudsman](http://www.sba.gov/ombudsman).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

### Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

*EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.*